

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

**Application of Milwaukee Water Works,
Milwaukee County, Wisconsin, for
Authority to Increase Water Rates**

Docket No. 3720-WR-107

**REQUEST TO INTERVENE OUT OF TIME AND
NOTICE OF APPEARANCE OF MILLERCOORS LLC**

MillerCoors LLC (“MillerCoors”) seeks to intervene in this proceeding pursuant to Wis. Stat. § 227.44 and Wis. Admin. Code § PSC 2.21. MillerCoors does not intend to challenge the revenue requirement proposals of the applicant, Milwaukee Water Works, or Public Service Commission Staff. Rather, MillerCoors seeks the opportunity to present testimony and examine witnesses on the issue of cost allocation and rate design due to the Commission Staff’s recently-filed rate design proposal. That proposal—released April 1—significantly increases Milwaukee Water Works’ suggested rate increase for MillerCoors and other large industrial customers.

The Commission should grant this request to intervene because MillerCoors satisfies the standards for both intervention by right and permissive intervention. Moreover, MillerCoors has good cause for late intervention, and its intervention will not disrupt the proceeding or prejudice other parties.

**I. THE COMMISSION SHOULD GRANT MILLERCOORS
INTERVENTION BY RIGHT.**

MillerCoors brews beer in Milwaukee in a brewery that has been in operation for over 150 years. MillerCoors employs nearly 1500 employees in Milwaukee, and approximately 1700 employees statewide. MillerCoors is one of Milwaukee Water Works’ largest industrial customers.

Wisconsin law provides that “any person whose substantial interest may be affected by the decision following the hearing [in a contested case] *shall*, upon the person’s request, be admitted as a party.” Wis. Stat. § 227.44(2m) (emphasis added). The Commission standard for intervention by right is similar—it provides that a person whose substantial interests may be affected by the Commission’s action or inaction shall be admitted as an intervenor. Wis. Admin. Code § PSC 2.21(1). MillerCoors satisfies this standard.

MillerCoors has a substantial interest in, and will be affected by, decisions that are made by Milwaukee Water Works and the Commission regarding water rates in this proceeding. MillerCoors will be subject to the rate increase requested by Milwaukee Water Works. Under Milwaukee Water Works’ suggested cost allocation, MillerCoors’ water rate would go up approximately 28%. However, under the Commission Staff’s rate design proposal, announced April 1, MillerCoors’ water rate would increase significantly more, by 38.9% or several hundred thousand dollars more per year. It is estimated that the increase would drive up MillerCoors’ water bills by 49.8%. If implemented, such an increase would place a significant strain on the brewery in the midst of a sustained economic downturn. Moreover, this proposed increase comes closely on the heels of the recent merger of Miller and Coors, at a time when the company is considering how best to maximize the cost-effectiveness of its brewing operations, including transitioning and integrating products across a national network of eight breweries.

The Commission has a long history of allowing utility customers to intervene in rate cases in recognition of the fact that they have a substantial interest in those proceedings. *See, e.g., intervention of Charter Steel in Docket No. 05-UR-104, Joint Application of Wisconsin Electric Power Company and Wisconsin Gas, LLC, both d/b/a/ We Energies, for Authorization for Wisconsin Electric Power Company to Increase its Electric, Natural Gas, and Steam Rates*

and for Wisconsin Gas, LLC to Increase its Natural Gas Rates – Test Year 2010; intervention of Wal-Mart Stores East, LP in Docket No. 05-UR-102, Joint Application of Wisconsin Electric Power Company and Wisconsin Gas Company for Rate Relief – Test Year 2006. By law, therefore, MillerCoors is entitled to intervene in this docket by right.

II. THE COMMISSION SHOULD GRANT MILLERCOORS PERMISSIVE INTERVENTION.

The standard for permissive intervention requires an intervenor to demonstrate that its participation in the proceeding will likely promote the proper disposition of the issues in the proceeding and will not impede the timely completion of the proceeding. Wis. Admin. Code § PSC 2.21(2). Even if MillerCoors is not allowed to intervene by right, the company satisfies the requirements for permissive intervention.

MillerCoors' participation in the proceeding will promote the proper disposition of the issues through its representation of the interests of large industrial customers—Milwaukee Water Works' largest consumers of water—before the Commission. No other company or organization has intervened in this proceeding to represent such interests. Further, MillerCoors has reviewed and will comply with the already-established deadlines in this proceeding.¹ Therefore, MillerCoors meets the standard for permissive intervention. Its participation will assist the Commission in its work, and its involvement will do nothing to impede the timely completion of this proceeding.

¹ If no decision has been made on MillerCoors' request to intervene by April 23, when direct testimony is due, MillerCoors may file direct testimony subject to the Administrative Law Judge's ruling on its request.

III. MILLERCOORS HAD GOOD CAUSE FOR NOT INTERVENING SOONER.

When deciding whether to allow intervention out of time, the administrative law judge may consider:

1. Whether the requestor had good cause for failing to file the request within the prescribed time;
2. Whether any disruption of the proceeding or docket may result from permitting intervention; and
3. If any prejudice to, or additional burdens upon, the existing parties may result from the permitted intervention.

Wis. Admin. Code § PSC 2.21(4)(a). MillerCoors meets each of these criteria.

MillerCoors did not intervene in this proceeding until now because it understands that Milwaukee Water Works has experienced increased costs and that some type of rate adjustment may be necessary. MillerCoors was aware of the cost allocation and revenue requirements outlined by Milwaukee Water Works, and had worked with Milwaukee Water Works as it designed its suggested cost allocation methodology.

However, when the Commission Staff's "Cost of Service Study and Rate Design Proposal" was filed on April 1, 2010 it specified that large industrial customers like MillerCoors would see not a 28% rate increase, but a 38.9% rate increase, translating into a nearly 50% increase in its water bill. MillerCoors only became aware of the Staff's modified proposed cost allocation on the evening of April 12, when Milwaukee Mayor Tom Barrett's office contacted the company regarding the significantly changed cost allocation. Once MillerCoors became aware of the change in the proposed increase, it worked diligently to retain counsel and file this request to intervene.

By intervening, MillerCoors does not take a position on Milwaukee Water Works' revenue requirement. However, MillerCoors *does* seek to examine the Commission Staff's cost

allocation, announced April 1. MillerCoors would therefore accept a condition that it present evidence only on the issue of cost allocation pursuant to Wis. Admin Code § PSC 2.21(4)(d).

MillerCoors also meets the other criteria for intervention out of time. It does not seek a delay of already-scheduled deadlines or other any other accommodation. Because no testimony has yet been filed in this matter, MillerCoors' intervention will not prejudice any of the current parties. In recognition of this fact, Milwaukee Water Works has indicated that it does not object to MillerCoors' request to intervene out of time in light of MillerCoors' commitment to honor the deadlines established in the case. Finally, MillerCoors will accept the record of the proceeding as it was developed prior to its intervention.

IV. CONCLUSION.

For the above reasons, MillerCoors respectfully requests that it be permitted to intervene in this proceeding.

V. NOTICE OF APPEARANCE.

Quarles & Brady, LLC, by its attorneys Ave Bie, Greg Everts and Joe Wilson appear on behalf of MillerCoors. All documents should be served on:

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Dated this 20th day of April, 2010.



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